MINUTES OF THE PRIVATE PROTECTIVE SERVICES BOARD MEETING FEBRUARY 22, 2008 HOLIDAY INN BROWNSTONE

1707 HILLSBOROUGH STREET RALEIGH, NC 27605

BOARD MEMBER PRESENT

BOARD MEMBER ABSENT

Bill Booth Berkley Blanks David Grimes David Pendry Brenda Bishop

James Stevens

Ron Burris Sally Pleasant Mack Donaldson Steve Johnson Richard Allen Jimmy Ashe Richard Jenkins

STAFF PRESENT

Terry Wright – Director Charles McDarris – Attorney Larry Liggins – Field Services Supervisor

Tim Pressley – Training Officer

Sarah Conner - Investigator Joyce McClure - Board Secretary Susan Harrison- Licensing Assistant

GUEST PRESENT

Larry Flannery Monty Clark Stephen Ciliberti Ruth Reynolds Bill Dover Jeff Kiker Tim McIntyre David Arndt Wayne Trachtenberg Mike Gambrill Ed Cobbler Terry Walser Blake Austensen Paul Schroll Sybil Richards Craig Colegrove Chris Ruhlman Floyd Reid Audra Coleman **Russ Thomas**

Chairman Blanks called the February 22, 2008 Private Protective Services Board meeting to order at 9:00 a.m. Mr. Blanks welcomed all guest and requested that they introduce themselves.

Attorney Charles McDarris explained the State Ethics Law, signed by Governor Easley, which addresses the ethics of public officials. This law states that if any Board Member has any conflict of interest, potential conflict of interest, or the appearance of a conflict, he or she should remove themselves from deliberation and vote on that matter and so state on the record.

GOOD OF THE ORDER:

Mr. Larry Flannary, NCAPI, advised that Mr. Monty Clark would be late and Mr. Clark has requested to address the board later in the meeting. Mr. Flannary also advised the NCAPI would be holding their next conference April 17 - 19, 2008 at Sea Trail and invitied all to attend their meeting.

APPROVAL OF THE DECEMBER 16, 2007 MEETING MINUTES:

MOTION BY MR. GRIMES TO APPROVE THE MINUTES AS PRESENTED. SECONDED BY MR. BURRIS. MOTION CARRIED.

SCREENING COMMITTEE REPORT:

Mr. Allen reported the Screening Committee met on Thursday February 21, 2008 from 8:05 a.m. until 12:35 p.m. to review a total of 48 applications and 4 other matters. (see report). Committee members were, Mr. Allen, Mr. Pendry, Mrs. Pleasant and Mrs. Bishop. Mr. Allen read the report for the record. Mr. Booth recused himself regarding number 29 Ashley Nicole Maiolo, number 30 Milford Hobson Miller and the matter of Steve Hartness.

MOTION TO ACCEPT THE SCREENING COMMITTEE REPORT BY MR. GRIMES. SECONDED BY MR. BURRIS, MOTION CARRIED.

Mr. Allen presented the following registration report for the period of 12/12/07 through 2/19/08. Total registrations 4,006; armed totals were 638 of which 326 were new, 283 were renewals,3 were duplicates and 26 reissue/dual. Unarmed totals were 3,368 which include 1,716 new, 1,503 renewals, 142 transfer and 7 duplicates. Total denials 877 of which 110 for cause and 767 for correctable. There were 405 applications approved which were previously denied for a total of 1,282 denials reviewed.

MOTION BY MR. PENDRY TO ACCEPT THE REGISTRATION REPORT. SECONDED BY MR. BURRIS, MOTION CARRIED.

GRIEVANCE COMMITTEE REPORT:

Mr. Grimes reported the committee met on Wednesday February 20, 2008 from 9:05 a.m. until 12:30 p.m. and from 1:30 p.m. until 3:05 p.m. to hear a total of thirteen cases. The committee members were Mr. Grimes, Mr. Stevens, Mr. Booth and Mr. Donaldson. Mr. Grimes presented the attached report. (See attachment)

Mr. Grimes recused himself regarding case numbers 2006-PPS-060 Dorinda Finn, 2007-PPS-048 Alfred James Peterson, 2008-PPS-012 Joshua Joseph Ehnert and 2008-PPS-013 Eddie Tijerina.

Mr. Booth recused himself regarding case number 2007-PPS-046 Raymond Grunch.

Mr. Stevens presented case number 2007-PPS-060 Dorinda Finn which was held in Hickory on February 5-6, 2008. The committee members for this case were Mr. Stevens, Mr. Donaldson and Mr. Booth.

Mr. Stevens advised the committee considered the original complaint, the amended complaint, second amended complaint and the June 8, 2007 complaint. The committee considered a total of twelve possible violations of the Private Protective Services act from all documentation presented. The committee presented to the board the attached document outlining their findings regarding this case. (See Attachment).

MOTION BY MR. BOOTH TO DELETE THE WORD PRIMARILY UNDER THE COMMITTEE RECOMMENDATION OF 74C-12(a) (22) UNDER NUMBER 7 OF THE REPORT. SECONDED BY MR. DONALDSON. MOTION CARRIED.

MOTION BY MR. BURRIS TO ACCEPT THE GRIEVANCE COMMITTEE REPORT AS PRESENTED. SECONDED BY MR. PENDRY. MOTION CARRIED.

FINAL AGENCY DECISIONS:

Attorney McDarris removed himself as Attorney for the Board and presented the following cases. All parties had been properly noticed of this meeting and none were in attendance.

Case number 07 DOJ 1557 Dawn Lajoy Paige vs. PPS Board. Ms. Paige was properly noticed of this meeting. This case was heard by Senior Administrative Law Judge Fred G. Morrison, Jr. on November 27, 2007. This is for the denial of an unarmed guard registration permit for lack of good moral character or temperate habits.

The proposal of the Administrative Law Judge is the Board uphold its denial of the unarmed guard registration for Ms. Paige.

MOTION BY MR. BURRIS THE BOARD ACCEPT THE RECOMMENDATION OF THE ADMINISTRATIVE LAW JUDGE. SECONDED BY MR. GRIMES. MOTION CARRIED.

Case number 07 DOJ 1073 Lawrence Price vs. PPS Board. Mr. Price was properly noticed and is not in attendance. This case was before Administrative Law Judge Augustus B. Elkins, II on July 24, 2007 for the denial of a Security Guard & Patrol License.

The proposal of the Administrative Law Judge is the contested case be granted in favor of Respondent and the Respondent's decision to deny Petitioner's application for a Security Guard and Patrol Profession License be deemed correct.

MOTION BY MR. GRIMES TO ACCEPT THE RECOMMENDATION OF THE ADMINISTRATIVE LAW JUDGE. SECONDED BY MR. BURRIS. MOTION CARRIED.

Case number 07 DOJ 1239 Dana M. Williams vs. PPS Board. Mrs. Williams was noticed of this meeting and is not present. This case was heard before Senior Administrative Law Judge Fred G. Morrison, Jr. on August 28, 2007 for the revocation of an unarmed guard registration permit.

The proposal of the Administrative Law Judge is to uphold the revocation of the unarmed guard registration permit.

MOTION BY MR. PENDRY TO ACCEPT THE RECOMMENDATION OF THE ADMINISTRATIVE LAW JUDGE. SECONDED BY MRS. BISHOP. MOTION CARRIED.

Attorney McDarris reported the matter of David Keith Shelton was heard in Superior Court in Guilford County on December 3, 2007. This case has been remanded back to the PPS Board for consideration.

MOTION BY MR. BURRIS THIS MATTER BE HEARD AT THE APRIL MEETING. SECONDED BY MR. GRIMES. MOTION CARRIED.

TRAINING & EDUCATION COMMITTEE:

Mr. Stevens advised the Training & Education Committee met on Thursday February 21, 2008 from 2:00 p.m. until 4:10 p.m. The committee members were Mr. Stevens, Mr. Johnson, Mr. Grimes, Mr. Booth and Mr. Allen.

Mr. Pressley reported we have the following courses scheduled: Spring 2008 Unarmed Guard Trainer, WTCC April 1, 2008 Firearms Trainer Recertification, NCJA February 25 – 29, 2008 Firearms Trainer Certification, NCJA – has been cancelled

The following PPS Trainer courses have been completed: February 2008 Unarmed Guard Trainer, WTCC December 2007 Unarmed Guard Trainer, WTCC February 2008 Firearms Trainer recertification, NCJA

The committee also heard from Officer Gerald Tanako of the Raleigh Police Department who made a presentation on Conducted Energy Devises (Taser). Officer Tanako of the Raleigh Police Department conducted a 30 minute presentation on the topic of conducted energy devices (tasers). Officer Tanako has conducted extensive research on this topic and presented a comprehensive study to the Chief of the Raleigh Police Department concerning the issues involved in the implementation of the use of tasers. He discussed recommendations for the minimum training requirements for the use of tasers by agencies/companies. Officer Tanako further discussed the potential legal concerns involving the use of tasers and he provided examples of some successful lawsuits filed against law enforcement agencies.

Mr. Pressley reported that on January 31, 2008 the PPS staff discovered that Security Forces, Inc. was conducting interactive unarmed guard training without having been approved by the Training & Education Committee and the PPS Board. Representatives of Security Forces were present and they advised the committee how their interactive training program was conducted. The committee discussed the issue and asked Training Officer Pressley to visit Security Forces sites, observe the training and report back to the committee at the April meeting.

Mr. Stevens reported to the PPSB that the Armored Car subcommittee had met and it is the committee's recommendation that a separate registration should be established for armed armored car employees and that the committee would go forth and develop a training program for the armored car profession.

MOTION BY MR. GRIMES TO CONTINUE WITH THE CEASE AND DESIST FOR SECURITY FORCES, INC. SECONDED BY MR. BOOTH. MOTION CARRIED.

MOTION BY MR. GRIMES TO ACCEPT THE TRAINING & EDUCATION COMMITTEE REPORT. MOTION CARRIED.

Mr. Pressley reported 12 NCAC 07D.0908(5) need to be changed to read "the certification by the PPS Firearms Trainer the applicant has successfully completed the classroom training by the applicant".

MOTION BY MR. BOOTH TO ACCEPT THE CHANGE AS PRESENTED. SECONDED BY MR. JOHNSON. MOTION CARRIED.

FINANCE COMMITTEE REPORT - NONE

74C RE-WRITE COMMITTEE:

Mr. Burris advised the committee met on Thursday February 21, 2008 from 4:05 p.m. until 4:35 p.m. Judge Burris provided an overview of the items that were discussed at the February 5^h 74C meeting. The Director was asked to continue to notice the licensee's and other interested personnel of the meetings. Judge Burris advised that the next public meeting will be April 17, 2008 at Sea Trail. This will probably be our last public meeting after which we will began to put items in order and develop the program for changes and additions.

Mr. Clark requested a copy of all items that have been discussed during the past several 74C meetings.

Mr. Burris requested the list be placed on the web and Mr. Wright to provide Mr. Clark with a copy.

MOTION BY MR. STEVENS TO ACCEPT THE COMMITTEE REPORT. SECONDED BY MR. GRIMES. MOTION CARRIED.

COMPUTER FORENSICS COMMITTEE:

Mr. Booth advised the committee met on Thursday February 21, 2008 from 4:40 p.m. until 5:30 p.m.

Mr. Booth reported the meeting was very informative with several interested parties addressing the committee regarding the computer forensics profession. Mr. Booth stated that we will have a workshop prior to the April meeting at Sea Trail for further discussion. Mr. Booth stated he is hopeful that the committee will have some recommendations to present to the full Board at the April meeting. All interested persons were requested to provide Mr. Wright with their name and address in order to be noticed of the workshop.

MOTION BY MR. GRIMES TO ACCEPT THE COMMITTEE REPORT. SECONDED BY MR. ALLEN. MOTION CARRIED.

SCREENING COMMITTEE:

Mr. Wright presented the Board with a proposal to change the current policy regarding correctable denials. If adopted the licensee will have thirty days to provide staff with the information that was omitted from the application. Once the thirty days have passed and if <u>all</u> the information has not been submitted, the licensee **shall** remove the guard from security guard and patrol assignments. The applicant will not be allowed to work until the information is provided and they receive the registration card. This process is effective

for those applications that are denied for **correctable reasons only**. If the applicant is denied for **cause reasons**, the applicant will still be required to be immediately pulled from post if they are registering as a **new** applicant. If the applicant is being denied for a combination of **correctable** and **cause** reasons, they will still be required to be pulled from post immediately upon receiving the denial letter if they are registering as a **new** applicant.

Applications submitted without the required criminal records checks or if the applicant has criminal convictions will be considered a **for cause** denial and applicant's registering as **new** would not be allowed to work until they submit the required information and receive the registration card.

MOTION BY MR. ALLEN TO ADOPT THE CORRECTABLE DENIAL PROCESS AS PRESENTED BY MR. WRIGHT. SECONDED BY MR. BOOTH. MOTION CARRIED.

OLD BUSINESS:

Mr. McDarris reported that the North Carolina Association of Chief's of Police rejected the Board's badge design.

A lengthy discussion was held regarding the badge issue with the following recommendation being made: Mr. Blanks suggested Mrs. Bishop, Mrs. Reynolds, Mr. Grimes as Chairman, Mr. Clark, Mr. McDarris and Mr. Wright set up a meeting with the Chief of Police Association and discuss this issue.

Mr. Clark, President of NCAPI addressed the policy of this association regarding continuing education for licensees. He presented the Board with a Memorandum dated February 23, 2008 (see attached) requesting their program be approved for continuing education for Private Investigators.

Mr. McDarris advised the Alarm Systems Licensing Board and the Private Protective Services Board filed rules several years ago to require continuing education. Since the Alarm Board had the authority they continued with the process, however, according to Rules Review the PPS Board did not have statutory authority to require continuing education. With the statute change that took effect October 1, 2007, the Board now has statutory authority to require continuing education.

Mr. McDarris further stated that since the Board now has the authority for continuing education the following will have to be determined.

- 1. Establish hours required.
- 2. Establish training requirements.
- 3. Must be reviewed by the Training & Education Committee.
- 4. Approved by the Board.

Mr. Clark advised the State of South Carolina has mandatory continuing education of eight hours.

MOTION BY MR. BURRIS THAT THE IMPLEMENTATION OF 74C-22 BE REFERRED BY THE TRAINING AND EDUCATION COMMITTEE. SECONDED BY MRS. PLEASANT. MOTION CARRIED.

The committee discussed inviting Mr. Brad Smith, Chairman of the Alarm Board to attend the next Board meeting to discuss how the ASLB handles the continuing education process. Mr. Stevens was in favor of Mr. Smith attending the next T&E meeting to discuss the CE process.

Due to the T&E committee having a full agenda for the April meeting the decision was made that the Training and Education Committee would meet at 1:00 p.m.on April 17, 2008 and the 74C Re-Write Committee will meet at 4:00 p.m.

Mr. Booth addressed the issue of advertising in accordance with the law and rules of 74C. The interpretation of that is that if you use any statement other than that listed in 12 NCAC 7D.0106(4) "Licensed by the Private Protective Services Board of the State of North Carolina." Then you must include your license number. If you do not indicate that then you do not have to list your license number.

MOTION BY MR. BOOTH TO REAFFIRM THAT IF AN INDIVIDUAL ADVERTISES AND USES THE PHRASE "LICENSE BY THE PRIVATE PROTECTIVE SERVICES BOARD OF THE STATE OF NORTH CAROLINA", THEN THE INDIVIDUAL MUST LIST ALL OF THEIR LICENSE NUMBERS. SECONDED BY MR. STEVENS. MOTION CARRIED.

Mr. Stevens addressed the matter of the Armored Car issue. This matter has been considered by the sub-committee.

MOTION BY MR. PENDRY WE ADOPT A NEW LICENSE CATEGORY FOR THE ARMORED CAR REGISTRATION EMPLOYEES. THIS REGISTRATION/LICENSE WILL BE ISSUED ONLY TO ARMORED CAR PERSONNEL AND NOT TRANSFERABLE TO THE SECURITY GUARD & PATROL INDUSTRY. SECONDED BY MR. BURRIS. MOTION CARRIED.

11:55 a.m. Break

12:10 p.m. Reconvened

Mr. Grimes requested to discuss a matter of the recovery fund with counsel in closed session.

MOTION BY MR. BURRIS TO GO INTO CLOSED SESSION TO CONFER WITH LEGAL COUNSEL IN ACCORDANCE WITH NCGS 143-318.11. SECONDED BY MR. BOOTH. MOTION CARRIED.

12:10 p.m. Closed Session 12:45 p.m. Reconvened

Mr. Blanks called the meeting back to order and called on Mr. Grimes.

Mr. Grimes reported the matter of the Recovery Fund would be pursued with the Attorney General, Governor, or their representatives and requested that the Board obtain private counsel to provide guidance as this issued is pursued.

MOTION BY MR. GRIMES TO PROCEED WITH THIS MATTER AND THE BOARD RETAIN PRIVATE COUNSEL. SECONDED BY MR. BOOTH. MOTION CARRIED.

NEW BUSINESS:

NONE

ATTORNEY'S REPORT:

Attorney McDarris presented his report.

CONSENT AGREEMENTS AND CIVIL PENALTIES

Joseph Becker – Consent agreement for unlicensed activity in the amount of \$918.00 has been paid.

William Baggett – Civil Penalty of \$500.00 for failing to give a report has been paid.

Joseph D. White – Consent Agreement for \$24,039.60 was issued to Mr. White. He responded that he could not pay. He has returned his license. We proceeded with the revocation hearing and are waiting for the Judge's order.

Henry Harrison – Consent Agreement of \$16,707.60 for registration violations has been issued. We have received the first installment, but we have not received the second of three.

Frank Galizia – Consent Agreement for \$ 918.00 for unlicensed activity has been paid.

Allied Barton – Consent Agreement for \$6,243.20 has been paid

Stephen Ciliberti – Consent Agreement for \$1,507.00 has been withdrawn. The matter was reviewed at the last Board meeting and the application was denied.

Boris Barrett – Consent Agreement for registration violation in the amount of \$938.40 is current with the first of three installment payments.

John Callicutt – Consent Agreement for registration violation of \$1,965.20 has been paid.

OFFICE OF ADMINISTRATIVE HEARINGS:

See attached report.

RULES:

- 12 NCAC 7D.0901, .0909 Rule places a two year expiration on an unarmed trainer certification and on a firearms trainer certification. The rule was filed with Rules Review Commission. We received a letter of approval from the Attorney General's office and it was sent to the RRC. The matter was considered on December 13, 2007, by the RRC and both rules were approved.
- 12 NCAC 7D.0911 Acknowledges two year certification and requires certification of sixteen hours of instruction during the past two years (prior rule required eight hours per year). The rule was filed with the RRC. We received a letter of approval from the Attorney General's Office and it was sent to the RRC. The matter was considered on December 13, 2007 by the RRC and was approved.
- 12 NCAC 7D.0601 An amendment to the PSE Licensing requirements has been filed with the RRC. The commission made comments. The rule has been resubmitted and will be considered this month. Mr. McDarris advised that he will report back at the next meeting.

Repeal of 12 NCAC 7D .1109 – Required video training by the Board. The Board voted to repeal the rule. It was filed with the RRC and was approved at the January 2008 RRC meeting.

- 12 NCAC 7D .0801 Rule to require an armed guard to certify that they are 21 years of age. The rule was filed with the RRC. The Commission provided comments, and the rule was resubmitted. It will be considered this month. I will report back at the next meeting.
- 12 NCAC 7D .0908 Emergency Rule regarding Post Delivery Reports We had requested an emergency rule for an error found in the post delivery reporting. After discussing this with the RRC staff, it was determined that we would request a technical correction. The rule was filed with the RRC. We received a letter of approval from the Attorney General's Office and it was sent to the RRC. The matter was considered on December 13, 2007 by the RRC and was approved.

Mr. McDarris requested clarification regarding the deletion of the requirement for applicants to provide verifiable experience regarding the deletion of the time limit of ten years. Mr. McDarris requested to know if this was for all license requiring experience?

MOTION BY MR. GRIMES TO REMOVE THE 10 YEAR TIME LIMIT FOR EXPERIENCE FOR ANY LICENSE AND THAT THE BOARD CONSIDER ANY DOCUMENTATED EXPERIENCE REGARDLESS OF THE TIME FRAME THE EXPERIENCE WAS GAINED. SECONDED BY MR. BOOTH. MOTION CARRIED.

Mr. McDarris also reported on the following items:

- 1. The insurance coverage for the Board The forms have been received and are in the process of being looked into.
- 2. We have three matters in Superior Court which are:

Kodiak Security – An injunction has been obtained.

Jason Wright – A temporary restraining order has been filed.

David Shelton – This case has been heard in Superior Court, Guilford County. The Court remanded it back to the Board. I will present that at the next meeting.

MOTION TO ACCEPT THE ATTORNEY'S REPORT BY MR. GRIMES SECONDED BY MR. STEVENS. MOTION CARRIED.

DIRECTOR'S REPORT:

Mr. Wright presented his written report. The budget as of 1/1/08 for the combined boards we have \$302,866.16 and the PPS recovery fund balance is \$78,466.84. Mr. Wright also advised the Board that we are having data base problems which is impacting our ability to print reports, send out renewals and other licensing/registration letters. Mr. Wright stated that DOJ's IT section is working on the problems and hopefully the issues will be corrected very shortly.

MOTION TO ACCEPT THE DIRECTOR'S REPORT BY MR. BURRIS. SECONDED BY STEVENS. MOTION CARRIED

Mr. Blanks requested to know the status of staff. Mr. Wright advised there are three vacancies, the Deputy Director and two in registration. Backgrounds are being conducted for the positions in registration and the backgrounds should be completed by the next board meeting. We also have one individual on maternity leave.

Mr. Blanks requested to know who has the authority regarding positions of the staff. Mr. Wright advised the Board has the right to suggest and approve additional staff. Once that is done, we have to go to State Personnel for approval, however, at this time we need to

make sure we have the funds to pay for the positions and would not suggest any further positions at this time.

Mr. Johnson requested to be heard on a matter of new business: The matter of Sheriff's do not recognize the PPS Firearms Certificate in order for an individual to obtain their conceal carry permit. The following motion was made:

MOTION BY MR. JOHNSON THE PRIVATE PROTECTIVE SERVICES BOARD DEEMS THE ISSUANCE OF THE FIREARMS TRAINING CERTIFICATE BY THE PRIVATE PROTECTIVE SERVICE FIREARMS INSTRUCTOR WILL SERVE IN LIEU OF THE FIREARMS REGISTRATION PERMIT IN ORDER TO SATISFY THE REQUIREMENT UNDER G.S. 14-415-12 A(4) THAT AN APPLICANT SUCCESSFULLY COMPLETE AN APPROVED SAFETY & TRAINING COURSE. SECONDED BY MR. ALLEN. MOTION CARRIED.

MOTION TO ADJOURN BY MR. BURRIS. SECOND BY MR. JOHNSON. MOTION CARRIED.

1:05 p.m. Adjourned.	
	Terry M. Wright, Director
	Susan B. Harrison, Reporter